

### **REMARKS**

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action mailed July 11, 2007 (hereinafter "Office Action"). In response, Applicants have amended Claims 8, 24, and 36 to correct errors in their dependencies. Applicants respectfully submit that the cited references fail to disclose or suggest, at least, all of the recitations of the independent claims. Accordingly, Applicants submit that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

#### **Section 112 Rejection**

Claim 9 stands rejected under 35 U.S.C. §112 because the reference to "the request" lacks antecedent basis. (Office Action, page 2). In response, Applicants have amended Claim 8 to depend from Claim 4 to correct the inadvertent antecedent basis error. Similar amendments have been made to dependent Claims 24 and 36.

#### **Independent Claims 1, 13, 17, and 29 are Patentable**

Independent Claims 1, 13, 17, and 29 stand rejected under 35 U.S.C. §102(b) as being anticipated by U. S. Patent No. 5,970,477 to Roden (hereinafter "Roden"). (Office Action, page 2). Independent Claim 1 is directed to a method of operating a broadband communication network, and recites:

establishing a communication flow between a network access terminal and a site using the broadband communication network; and  
allocating a cost of the communication flow between the network access terminal and the site between a first account associated with a user of the network access terminal and a second account associated with an entity other than the user of the network access terminal. (Emphasis added).

Independent Claims 17 and 29 include similar recitations. Independent Claim 13 is directed to a point of presence system, and recites:

a broadband access node that is configured to establish a communication flow between a network access terminal and a site using a broadband communication network; and  
a billing system that is configured to allocate a cost of the communication flow between the network access terminal and the site between a first account associated with a user of the network access terminal and a second account

associated with an entity other than the user of the network access terminal.  
(Emphasis added).

Independent Claims 1, 13, 17, and 29 include recitations directed to allocating a cost of a communication flow in a broadband communication network between a first account associated with a user of a network access terminal and a second account associated with another entity.

Applicants acknowledge that Roden describes allocating costs between different entities in a narrowband network. (Roden, col. 8, line 43 - col. 10, line 3). In sharp contrast with the recitations of independent Claims 1, 13, 17, and 29, however, Roden does not disclose or suggest allocating a cost of a communication flow between an account associated with a user of a network access terminal and a second account associated with another entity in a broadband communication network. As shown in FIG. 2 of Roden, a user accesses an Internet site 18 through a modem pool 32, which provides a narrowband connection. By contrast, as shown in FIG. 2 of the present Specification, a broadband access node 210 may provide a user with a broadband connection to access an Internet site 208.

For at least the foregoing reasons, Applicants respectfully submit that independent Claims 1, 13, 17, and 29 are patentable over Roden and that Claims 2 - 12, 14 - 16, 18 - 28, and 30 - 40 are patentable at least per the patentability of independent Claims 1, 13, 17, and 29.

#### **Various Dependent Claims are Separately Patentable**

Dependent Claims 4 - 9, 20 - 25, and 32 - 37 stand rejected under 35 U.S.C. §102(b) as being anticipated by Roden. (Office Action, page 2). These claims depend from dependent Claims 3, 19, and 31, respectively, which include recitations that the Office Action acknowledges are not taught by Roden. (Office Action, page 7). Applicants submit, therefore, that dependent Claims 4 - 9, 20 - 25, and 32 - 37 are separately patentable over Roden for at least these additional reasons.

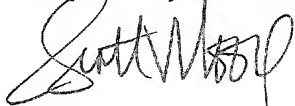
Dependent Claims 3, 15, 19, and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Roden in view of U. S. Patent No. 6,775,267 to Kung et al. (hereinafter "Kung"). (Office Action, page 7). The Office Action acknowledges that Roden does not disclose or suggest allocating the cost of a communication flow between first and second accounts based on whether the communication flow is at a base performance level or an enhanced performance level, but alleges that Kung provides the missing teachings. (Office

Action, page 7). Applicants respectfully disagree. Kung describes billing a customer for a communication service based on the level and/or quality of the service that is provided. (Kung, col. 33, line 49 - col. 34, line 34). Kung does not disclose or suggest allocating costs between the end user and another party, such as the service provider, based on the level and/or quality of service provided to the end user. Instead, Kung describes billing all costs to the end user with the amount being based on the level and/or quality of service actually provided. Applicants submit that the combination of Roden and Kung would result in a system in which the costs of a narrowband communication flow could be allocated between a user and another party and the cost differentials based on whether the communication flow is at a base performance level or an enhanced performance level would be allocated solely to the end user based on the actual level and/or quality of service delivered to the end user. Applicants submit, therefore, that dependent Claims 3, 15, 19, and 31 are separately patentable over Roden and Kung for at least these additional reasons.

### CONCLUSION

In light of the above amendments and remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,



D. Scott Moore  
Registration No. 42,011

Myers Bigel Sibley & Sajovec, P.A.  
P. O. Box 37428  
Raleigh, North Carolina 27627  
Telephone: (919) 854-1400  
Facsimile: (919) 854-1401  
Customer Number 20792

#### CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on October 9, 2007.

Signature:

  
Rosa Lee Brinson